

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CHRISTIAN VANDER VLIET

Plaintiff,

-against-

NEWREZ, LLC D/B/A SHELLPOINT
MORTGAGE SERVICING; SERVIS ONE, INC.
D/B/A BSI FINANCIAL SERVICES,

Defendants.

Case No. 3:19-cv-18365

**NEWREZ LLC D/B/A
SHELLPOINT MORTGAGE
SERVICING ANSWER**

Defendant NewRez, LLC d/b/a Shellpoint Mortgage Servicing (**Shellpoint**) hereby submits its answer in response to plaintiff Christian Vander Vliet's Complaint dated September 25, 2019, and states:

1. Defendant denies the allegations in paragraph one of the complaint as to Shellpoint. The remaining allegations set forth in paragraph one of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refers all questions of law to the Court.
2. Defendant admits the allegation in paragraph two of the complaint.
3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph three of the complaint.
4. Defendant admits the allegations in paragraph four of the complaint.
5. Defendant admits the allegation in paragraph five of the complaint.
6. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph six of the complaint.

7. Defendant denies the allegations in paragraph seven of the complaint, except admits it operates as a business entity in New Jersey, and respectfully refers all questions of law to the Court.

8. The allegations set forth in paragraph eight of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refers all questions of law to the Court.

9. States no response is required to paragraph nine of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

10. States no response is required to paragraph ten of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

11. Defendant denies the allegations in paragraph eleven of the complaint as to Shellpoint. The remaining allegations set forth in paragraph eleven of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

12. States no response is required to paragraph twelve of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

13. States no response is required to paragraph thirteen of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

14. States no response is required to paragraph fourteen of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

15. States no response is required to paragraph fifteen of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

16. States no response is required to paragraph sixteen of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

17. States no response is required to paragraph seventeen of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

18. States no response is required to paragraph eighteen of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

19. Defendant denies the allegations in paragraph nineteen of the complaint and respectfully refers all questions of law to the Court.

20. Defendant denies the allegations in paragraph twenty of the complaint and respectfully refers all questions of law to the Court.

21. Defendant denies the allegations in paragraph twenty-one of the complaint and respectfully refers all questions of law to the Court.

22. States no response is required to paragraph twenty-two of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

23. States no response is required to paragraph twenty-three of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

24. States no response is required to paragraph twenty-four of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

25. States no response is required to paragraph twenty-five of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

26. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph twenty-six of the complaint.

27. Defendant admits the allegation in paragraph twenty-seven of the complaint.

28. Defendant denies the allegations in paragraph twenty-eight of the complaint.

29. Defendant admits the allegation in paragraph twenty-nine of the complaint.

30. Defendant admits the allegation in paragraph thirty of the complaint.

31. Defendant denies allegations in paragraph thirty-one of the complaint, except admits Plaintiff contacted Shellpoint regarding payment on February 20, 2019.

32. Defendant denies allegations in paragraph thirty-two of the complaint, except admits Shellpoint attempted to process a payment on February 20, 2019.

33. Defendant denies the allegation in paragraph thirty-three of the complaint.

34. Defendant denies the allegation in paragraph thirty-four of the complaint, except admits Shellpoint sent plaintiff a letter dated March 19, 2019 informing him of "a returned item from your financial institution in the amount of \$2,237.60."

35. Defendant denies the allegations in paragraph thirty-five of the complaint.

36. Defendant denies the allegations in paragraph thirty-six of the complaint, except admits plaintiff sent Shellpoint a facsimile on April 8, 2019.

37. Defendant admits the allegation in paragraph thirty-seven of the complaint.

38. Defendant admits the allegation in paragraph thirty-eight of the complaint.

39. Defendant denies the allegation in paragraph thirty-nine of the complaint, except admits plaintiff sent a facsimile to Shellpoint on April 26, 2019.

40. Defendant admits the allegation in paragraph forty of the complaint.

41. Defendant denies the allegations in paragraph forty-one of the complaint.

42. Defendant denies the allegations in paragraph forty-two of the complaint, except admits plaintiff sent Shellpoint representative an email correspondence on May 20, 2019.

43. Defendant admits the allegation in paragraph forty-three of the complaint.

44. Defendant denies the allegation in paragraph forty-four of the complaint, except admits plaintiff sent Shellpoint a facsimile on May 30, 2019.

45. Defendant denies the allegations in paragraph forty-five of the complaint, except admits a foreclosure sale was scheduled for August 5, 2019.

46. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph forty-six of the complaint.

47. Defendant admits the allegations in paragraph forty-seven of the complaint.

48. Defendant admits the allegations in paragraph forty-eight of the complaint.

49. Defendant denies the allegations in paragraph forty-nine of the complaint.

50. Defendant admits the allegations in paragraph fifty of the complaint.

51. Defendant denies the allegations in paragraph fifty-one of the complaint, except admits Shellpoint responded to the "RFI" through correspondence dated July 26, 2019.

52. Defendant denies the allegations in paragraph fifty-two of the complaint, except admits counsel mailed "NOE."

53. Defendant admits the allegations in paragraph fifty-three of the complaint.

54. Defendant denies the allegations in paragraph fifty-four of the complaint, except admits counsel mailed "NOE."

55. Defendant admits the allegations in paragraph fifty-five of the complaint.

56. Defendant denies the allegations in paragraph fifty-six of the complaint as to Shellpoint, except admits property was scheduled to be sold at auction on August 2, 2019. The remaining allegations set forth in paragraph fifty-six of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

57. Defendant denies the allegations in paragraph fifty-seven of the complaint

58. Defendant denies the allegations in paragraph fifty-eight of the complaint and all its subparts, and respectfully refers all questions of law to the court.

59. The allegations set forth in paragraph fifty-nine of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

60. The allegations set forth in paragraph sixty of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

61. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph sixty-one of the complaint.

62. Defendant denies the allegations in paragraph sixty-two of the complaint and all its subparts, and respectfully refers all questions of law to the court.

63. States no response is required to paragraph sixty-three of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

COUNT ONE

64. In response to the allegations of paragraph sixty-four of the complaint, defendant repeats and reiterates each and every response contained in the paragraphs 1 through 63 of this answer as if set forth fully herein.

65. Defendant denies the allegations in paragraph sixty-five of the complaint and respectfully refers all questions of law to the court.

66. Defendant denies the allegation in paragraph sixty-six of the complaint and respectfully refers all questions of law to the court.

67. Defendant denies the allegations in paragraph sixty-seven of the complaint.

68. Defendant denies the allegations in paragraph sixty-eight of the complaint and respectfully refers all questions of law to the court.

69. Defendant denies the allegations in paragraph sixty-nine of the complaint and respectfully refers all questions of law to the court.

70. Defendant denies the allegations in paragraph seventy of the complaint and respectfully refers all questions of law to the court.

71. Defendant denies the allegations in paragraph seventy-one of the complaint.

72. Defendant denies the allegations in paragraph seventy-two of the complaint, and respectfully refers all questions of law to the court.

73. Defendant denies the allegations in paragraph seventy-three of the complaint and respectfully refers all questions of law to the court.

COUNT TWO

74. In response to the allegations of paragraph seventy-four of the complaint, defendant repeats and reiterates each and every response contained in the paragraphs 1 through 73 of this answer as if set forth fully herein.

75. States no response is required to paragraph seventy-five of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

76. States no response is required to paragraph seventy-six of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

77. Defendant denies all allegations in paragraph seventy-seven of the complaint and respectfully refers all questions of law to the court.

78. Defendant denies all allegations in paragraph seventy-eight of the complaint and respectfully refers all questions of law to the court.

79. Defendant denies all allegations in paragraph seventy-nine of the complaint and respectfully refers all questions of law to the court.

80. Defendant denies the allegations in paragraph eighty of the complaint and respectfully refers all questions of law to the court.

81. Defendant denies the allegations in paragraph eighty-one of the complaint and respectfully refers all questions of law to the court.

COUNT THREE

82. In response to the allegations of paragraph eighty-two of the complaint, defendant repeats and reiterates each and every response contained in the paragraphs 1 through 81 of this answer as if set forth fully herein.

83. States no response is required to paragraph eighty-three of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

84. Defendant denies the allegation in paragraph eighty-four of the complaint and respectfully refers all questions of law to the court.

85. Defendant denies the allegations in paragraph eighty-five of the complaint and respectfully refers all questions of law to the court.

86. States no response is required to paragraph sixty-six of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

87. States no response is required to paragraph sixty-seven of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

88. Defendant denies the allegations in paragraph eighty-eight of the complaint.

89. Defendant denies the allegations in paragraph eighty-nine of the complaint.

90. Defendant denies the allegations in paragraph ninety of the complaint and respectfully refers all questions of law to the court.

91. Defendant denies the allegations in paragraph ninety-one of the complaint and respectfully refers all questions of law to the court.

92. Defendant denies the allegations in paragraph ninety-two of the complaint, and all of its subparts, and respectfully refers all questions of law to the court.

COUNT FOUR

93. In response to the allegations of paragraph ninety-three of the complaint, defendant repeats and reiterates each and every response contained in the paragraphs 1 through 92 of this answer as if set forth fully herein.

94. States no response is required to paragraph ninety-four of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

95. States no response is required to paragraph ninety-five of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

96. States no response is required to paragraph ninety-six of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

97. States no response is required to paragraph ninety-seven of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

98. Defendant admits the allegation in paragraph ninety-eight of the complaint.

99. Defendant admits the allegation in paragraph ninety-nine of the complaint.

100. Defendant admits the allegation in paragraph one hundred of the complaint.

101. Defendant admits the allegations in paragraph one hundred one of the complaint.

102. Defendant admits the allegation in paragraph one hundred two of the complaint.

103. Defendant denies the allegations in paragraph one hundred three of the complaint.

104. Defendant denies the allegations in paragraph one hundred four of the complaint.

105. Defendant denies the allegations in paragraph one hundred five of the complaint and respectfully refers all questions of law to the court.

106. Defendant denies the allegation in paragraph one hundred six of the complaint and respectfully refers all questions of law to the court.

107. Defendant denies the allegations in paragraph one hundred seven of the complaint and respectfully refers all questions of law to the court.

108. States no response is required to paragraph one hundred eight of the complaint. To the extent a response is required, defendant denies all allegations, and respectfully refers all questions of law to the court.

COUNT FIVE

109. In response to the allegations of paragraph one hundred nine of the complaint, defendant repeats and reiterates each and every denial contained in the paragraphs 1 through 108 of this answer as if set forth fully herein.

110. States no response is required to paragraph one hundred ten of the complaint. To the extent a response is required, defendant denies allegation, and respectfully refers all questions of law to the court.

111. States no response is required to paragraph one hundred eleven of the complaint. To the extent a response is required, defendant denies allegation, and respectfully refers all questions of law to the court.

112. Defendant denies the allegations in paragraph one hundred twelve and respectfully refers all questions of law to the court.

113. Defendant denies the allegations in paragraph one hundred thirteen of the complaint and respectfully refers all questions of law to the court.

114. Defendant denies the allegations in paragraph one hundred fourteen of the complaint and respectfully refers all questions of law to the court.

115. Defendant denies the allegations in paragraph one hundred fifteen of the complaint and respectfully refer all questions of law to the court.

116. Defendant denies the allegations in paragraph one hundred sixteen of the complaint and respectfully refers all questions of law to the court.

117. States no response is required to paragraph one hundred seventeen of the complaint. To the extent a response is required, defendant denies allegation, and respectfully refers all questions of law to the court.

COUNT SIX

118. In response to the allegations of paragraph one hundred eighteen of the complaint, defendant repeats and reiterates each and every denial contained in the paragraphs 1 through 117 of this answer as if set forth fully herein.

119. The allegations set forth in paragraph one hundred nineteen of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

120. The allegations set forth in paragraph one hundred twenty of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

121. The allegations set forth in paragraph one hundred twenty-one of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

122. The allegations set forth in paragraph one hundred twenty-two of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

123. The allegations set forth in paragraph one hundred twenty-three of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

124. The allegations set forth in paragraph one hundred twenty-four of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

125. The allegations set forth in paragraph one hundred twenty-five of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

126. The allegations set forth in paragraph one hundred twenty-six of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

127. The allegations set forth in paragraph one hundred twenty-seven of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

128. The allegations set forth in paragraph one hundred twenty-eight of the complaint are not directed towards defendant and are not facts to which a response is required from

defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

COUNT SEVEN

129. In response to the allegations of paragraph one hundred twenty-nine of the complaint, defendant repeats and reiterates each and every denial contained in the paragraphs 1 through 128 of this answer as if set forth fully herein.

130. The allegations set forth in paragraph one hundred thirty of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

131. The allegations set forth in paragraph one hundred thirty-one of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

132. The allegations set forth in paragraph one hundred thirty-two of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

133. The allegations set forth in paragraph one hundred thirty-three of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

134. The allegations set forth in paragraph one hundred thirty-four of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

135. The allegations set forth in paragraph one hundred thirty-five of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

136. The allegations set forth in paragraph one hundred twenty-six of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

137. The allegations set forth in paragraph one hundred thirty-seven of the complaint are not directed towards defendant and are not facts to which a response is required from defendant. To the extent a response is required, defendant denies the allegations, and respectfully refer all questions of law to the Court.

II. AFFIRMATIVE DEFENSES

1. ***Failure to State a Claim:*** The complaint and each purported cause of action in the complaint fails to state a claim upon which relief can be granted.
2. ***Laches:*** The claims are barred by the doctrine of laches.
3. ***Estoppel:*** The claims are barred by the doctrine of estoppel.

4. ***Res Judicata/Collateral Estoppel:*** The claims are barred by the doctrine of res judicata, in particular by the preclusive effect of the final judgment in the Superior Court of New Jersey, Chancery Division, Monmouth County, dated June 10, 2019.

5. ***Entire Controversy Doctrine:*** Plaintiff's claim is barred by the Entire Controversy Doctrine.

6. ***Waiver and/or Release:*** Plaintiff has waived and/or released the right to pursue the claims.

7. ***Unclean Hands:*** Plaintiff's claims are barred by the doctrine of unclean hands.

8. ***Statute of Limitations:*** Plaintiff's claims for relief are limited and/or barred by the applicable statutes of limitations.

9. ***Statute of Frauds:*** Any counterclaims based on allegations inconsistent with the terms of the note and mortgage are barred by the statute of frauds.

10. ***Breach of Duties:*** Defendant's recovery is barred because he is in material breach of the duties under which this action arises.

11. ***Breach of Agreements:*** Plaintiff breached the terms of the note and mortgage.

12. ***Voluntary Agreement:*** The counterclaims are barred, in whole or in part, by the defendant's binding, voluntary agreement to the terms and conditions of the loan.

13. ***Reservation:*** Defendant reserves the right to assert any additional affirmative defenses based on information or knowledge obtained throughout the course of litigation.

Dated: New York, New York
October 24, 2019

AKERMAN LLP

By: /s/ Anne Carrasco
Anne Carrasco

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